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July 25, 2008

VIA ECF

Honorable Richard J. Holwell  
U.S. District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007-1312

Re: Thelma Felipe v. Target Corporation and  
Kingsbridge Associates, LLC  
Civil Action No.: 08 CIV 4317(JH) (MP)  
J. Holwell  
M. Pitman  
Our File No.: TAR 5558

Dear Honorable Judge Holwell:

As your Honor is aware, this office represents defendant Target Corporation in regards to the above-referenced matter.

Pursuant to your Honor's request, defendant respectfully submits the attached Bargain and Sale Deeds for the property located at 40 W. 225<sup>th</sup> Street, Bronx, New York (Block 3245, Lot 51) and an adjacent property located at 50 W. 225<sup>th</sup> Street, New York, New York (Block 2215, Lot 700). As your Honor is aware, plaintiff alleges that her accident occurred on September 7, 2007 at the Target store located at 40 W. 225<sup>th</sup> Street, Bronx, New York. As the attached documents establish, Target

Honorable Richard J. Holwell  
U.S. District Court  
Southern District of New York  
July 25, 2008  
Page 2

Corporation obtained ownership of the above-referenced properties February 5, 2002.

In light of the above, it is clear that Kingsbridge Associates, LLC is not the owner of the subject Target store or the property it is situated on and therefore is not a proper party to this action. As a result of the above, it is respectfully submitted that plaintiff's inclusion of Kingsbridge Associates, LLC in this action was solely done in an effort to destroy diversity.

As Kingsbridge Associates, LLC is not the owner of the property and had no maintenance responsibilities over the interior of the Target store, it is respectfully submitted that Kingsbridge Associates, LLC is a nominal party whose citizenship should be disregarded for purposes of diversity jurisdiction. See Vets North, Inc. v. Libutti, 2003 WL 21542554, at \*5 (E.D.N.Y. April 21, 2003) (Non-diverse parties determined to be fraudulently joined are deemed "nominal parties" and disregarded for purposes of establishing diversity jurisdiction). Thus diversity of jurisdiction exists in this matter and removal was proper.

As a result of the foregoing, it is respectfully submitted that plaintiff's motion be denied in its entirety and that defendant be granted such other relief as the Court may deem just and proper.

Respectfully submitted,

/s/Kevin P. Simmons

MNR:mmr  
Attachment

Kevin P. Simmons (ks 7818)

## CITY REGISTER RECORDING AND ENDORSEMENT PAGE

COUNTY OF

BRONX

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TOTAL NUMBER OF  
PAGES IN DOCUMENT  
INCLUDING THIS PAGE

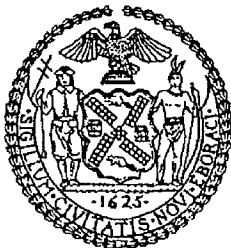
8

Block ▼ 3245	Lots - ONLY IF ENTIRE LOT ▼ 51	Partial Lots ▼ P/O
Premises ▼ 40 W 225 <sup>th</sup> ST.		NAME ▼ TARGET CORPORATION
Title/Agent Company Name ▼ FIRST AMERICAN TITLE INS CO.		ADDRESS ▼ 1000 NICOLLET MALL TPN - 12 E
Title Company Number ▼ NY00005147 NY NY		CITY ▼ STATE ▼ ZIP ▼ MINNEAPOLIS MN 55403
NAME & ADDRESS	PARTY 1 ▼ THE NEW YORK AND PRESBYTERIAN HOSPITAL	
	ADDITIONAL PARTY 1 ▼ 622 W 168 <sup>th</sup> ST. NY NY 10032	
	PARTY 2 ▼ TARGET CORPORATION	
	ADDITIONAL PARTY 2 ▼ 1000 NICOLLET MALL TPN - 12 E, MINNEAPOLIS, MN 55403	
CHECK THIS BOX IF THERE ARE MORE THAN 2 OF EITHER PARTY <input type="checkbox"/>		

CITY REGISTER'S USE ONLY - DO NOT WRITE BELOW THIS LINE

Examined by (s): <i>PI</i>	City Register Serial Number ▶ 24765
Mtge Tax Serial No. _____	Indexed By (s): <i>PK</i>
Mtge Amount \$ _____	Verified By (s): _____
Taxable Amount \$ _____	Block(s) and Lot(s) verified by (✓):
Exemption (✓) _____ YES <input type="checkbox"/> NO <input type="checkbox"/>	Address <i>NO</i> Tax Map <input type="checkbox"/>
Type: [339EE] [255] [OTHER _____]	Extra Block(s) _____ Lot(s) _____
Dwelling Type: [1 to 2] [3] [4 to 6] [OVER 6]	Recording Fee <i>A</i> \$ 72
TAX RECEIVED ON ABOVE MORTGAGE ▼	Affidavit Fee (C) \$
County (basic) \$ _____	RPTT Fee (R) \$ 25
City (Add'l) \$ _____	HPD-A <input checked="" type="checkbox"/> HPD-C <input type="checkbox"/>
Spec Add'l \$ _____	New York State Real Estate Transfer Tax ▼
TASF \$ _____	\$ 0
MTA \$ _____	Serial Number ▶ 007509
NYCTA \$ _____	New York City Real Property Transfer Tax Serial Number ▶ 0004364
TOTAL TAX \$ _____	
Apportionment Mortgage (✓) YES <input type="checkbox"/> NO <input type="checkbox"/>	

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RECORDED IN THE OFFICE OF THE CITY REGISTER  
OF THE CITY OF NEW YORK

2008 JUL 22 P 12:35

RECEIVED 26 FEB 14 34

**BARGAIN AND SALE DEED**  
**(With Covenant Against Grantor's Acts)**

THIS INDENTURE, made as of the 5<sup>th</sup> day of February, 2002

The New York and Presbyterian Hospital (as successor, by merger, to The Presbyterian Hospital in the City of New York), a New York not-for-profit corporation, having an address at 622 West 168<sup>th</sup> Street, New York, New York 10032

party of the first part, and

Target Corporation, a Minnesota corporation, having an office at 1000 Nicollet Mall TPN-12E, Minneapolis, MN 55403

party of the second part

**WITNESSETH**, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, situate, lying and being partly in Bronx County and partly in New York County, City of New York, State of New York, as more fully described in Schedule A annexed hereto.

Said premises known as and by the street number 40 West 225<sup>th</sup> Street, Bronx, New York (Block 3245, Lot 51) and 50 West 225th Street, New York, New York (Block: 2215, Lot 700).

Being the same premises conveyed by deed dated as of March 27, 1985 and recorded April 2, 1985 in Reel 893 Page 31 and re-recorded on August 12, 1995 in Reel 948 Page 1296 in the New York City Register's office, New York County with a duplicate of said deed also recorded in the New York City Register's office, Bronx County on April 3, 1985 in Reel 587, Page 26.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above-described premises to the center lines thereof;

Phew: 40 West 225<sup>th</sup> STREET

67-202681435

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises;

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed as of the day and year first above written.

THE NEW YORK AND PRESBYTERIAN  
HOSPITAL

By:  *JP Real Estate*

Name: *Frank J. Moran*

Title: *Vice President*

REEL-2 25 PG 1438

State of New York     )  
                                  ) ss.:  
County of New York    )

On the 5<sup>th</sup> day of February 2002, before me , personally appeared Frank J. Horan , personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (her/his/their) capacity, and that by (her/his/their) signature on this instrument, the individual(s), or person(s) upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

TIMOTHY P. WHELAN  
NOTARY PUBLIC, State of New York  
No. 02WH5084562  
Qualified in Nassau County  
Commission Expires September 8, 2005

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**BARGAIN AND SALE DEED**

With Covenant Against Grantor's Acts

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The New York and Presbyterian Hospital

to

Target Corporation

---

Block:	2215	Block:	3245
Lot:	700	Lot:	51
County:	New York	County:	Bronx

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Record and Return to:

## CITY REGISTER RECORDING AND ENDORSEMENT PAGE (6)

COUNTY OF NEW YORK

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RIVERMILL, NY

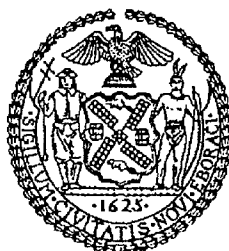
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PAGES IN DOCUMENT  
INCLUDING THIS PAGE 8

Block <u>2215</u>	Lots - ONLY IF ENTIRE LOT <u>700</u>	Partial Lots <u>P/O</u>
Premises <u>50 W 225<sup>th</sup> ST.</u>	NAME <u>TARGET CORPORATION</u> ADDRESS <u>MT. ROBERT L. NY 5, 110.</u> CITY <u>MINNEAPOLIS</u> STATE <u>MN</u> ZIP <u>55403</u>	
Title/Agent Company Name <u>FIRST AMERICAN TITLE FIDELITY</u>	RECORD & RETURN TO ADDRESS <u>1000 NICOLLET MALL TPN-12 E</u> CITY <u>MINNEAPOLIS</u> STATE <u>MN</u> ZIP <u>55403</u>	
Title Company Number <u>NY 00005147 NY NY</u>		
NAME & ADDRESS	PARTY 1 <u>THE NEW YORK AND PRES BY TRIUMPH HOSPITAL</u>	
	ADDITIONAL PARTY 1 <u>622 W 168<sup>th</sup> ST. NY NY 10032</u>	
	PARTY 2 <u>TARGET CORPORATION</u>	
	ADDITIONAL PARTY 2 <u>1000 NICOLLET MALL TPN - 12 E MINNEAPOLIS MN 55403</u>	
CHECK THIS BOX IF THERE ARE MORE THAN 2 OF EITHER PARTY <input type="checkbox"/>		

CITY REGISTER'S USE ONLY - DO NOT WRITE BELOW THIS LINE

Examined by (s): <u>my</u>	City Register Serial Number <u>011462</u>
Mtge Tax Serial No. _____	Indexed By (s): <u>ul</u>
Mtge Amount \$ _____	Verified By (s): <u>ymb</u>
Taxable Amount \$ _____	Block(s) and Lot(s) verified by (s): <u>my</u>
Exemption (✓) YES <input type="checkbox"/> NO <input type="checkbox"/>	Address <input checked="" type="checkbox"/> Tax Map <input type="checkbox"/>
Type: <u>339EE</u> <u>255</u> <u>OTHER</u>	Extra Block(s) _____ Lot(s) _____
Dwelling Type: <u>[1 to 2]</u> <u>[3]</u> <u>[4 to 6]</u> <u>[OVER 6]</u>	Recording Fee <u>A</u> \$ <u>57</u>
TAX RECEIVED ON ABOVE MORTGAGE	Affidavit Fee (C) \$ _____
County (basic) \$ _____	RPTT Fee (R) \$ <u>25</u>
City (Add'l) \$ _____	HPD-A <input checked="" type="checkbox"/> HPD-C <input type="checkbox"/>
Spec Add'l \$ _____	New York State Real Estate Transfer Tax
TASF \$ _____	\$ <u>62800</u>
MTA \$ _____	Serial Number <u>602850</u>
NYCTA \$ _____	New York City Real Property Transfer Tax
TOTAL TAX \$ _____	\$ <u>1812</u>
Apportionment Mortgage (✓) YES <input type="checkbox"/> NO <input type="checkbox"/>	Serial Number _____

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RECORDED IN THE OFFICE OF THE CITY REGISTER  
OF THE CITY OF NEW YORK

2008 MAR 7 2:00  
 [Signature]

[Signature]



RECORDED 02221

**BARGAIN AND SALE DEED**  
**(With Covenant Against Grantor's Acts)**

\$62,800

**THIS INDENTURE**, made as of the 5<sup>th</sup> day of February, 2002

The New York and Presbyterian Hospital (as successor, by merger, to The Presbyterian Hospital in the City of New York), a New York not-for-profit corporation, having an address at 622 West 168<sup>th</sup> Street, New York, New York 10032

party of the first part, and

Target Corporation, a Minnesota corporation, having an office at 1000 Nicollet Mall TPN-12E, Minneapolis, MN 55403

party of the second part

**WITNESSETH**, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, situate, lying and being partly in Bronx County and partly in New York County, City of New York, State of New York, as more fully described in Schedule A annexed hereto.

Said premises known as and by the street number 40 West 225<sup>th</sup> Street, Bronx, New York (Block 3245, Lot 51) and 50 West 225<sup>th</sup> Street, New York, New York (Block: 2215, Lot 700).

Being the same premises conveyed by deed dated as of March 27, 1985 and recorded April 2, 1985 in Reel 893 Page 31 and re-recorded on August 12, 1995 in Reel 948 Page 1296 in the New York City Register's office, New York County with a duplicate of said deed also recorded in the New York City Register's office, Bronx County on April 3, 1985 in Reel 587, Page 26.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above-described premises to the center lines thereof;

Prems: 50 W. 225<sup>th</sup> ST.

REC- 65 88 2228

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises;

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

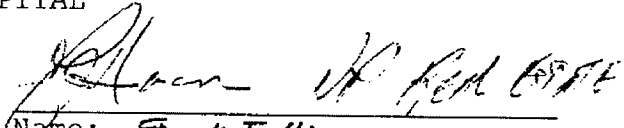
AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed as of the day and year first above written.

THE NEW YORK AND PRESBYTERIAN  
HOSPITAL

By:

  
Name: Frank J. Moran  
Title: Vice President

2008 FEB 22 2 29

State of New York     )  
                                      ) ss.:  
County of New York    )

On the 5<sup>th</sup> day of February 2002, before me , personally appeared Frank J. Holan , personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (her/his/their) capacity, and that by (her/his/their) signature on this instrument, the individual(s), or person(s) upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

TIMOTHY P. WHELAN  
NOTARY PUBLIC, State of New York  
No. 02WH5084562  
Qualified in Nassau County  
Commission Expires September 8, 2005



## *First American Title Insurance Company of New York*

Title No. NY-00005147-NYNY

### SCHEDULE "A"

ALL that certain plot, piece or parcel of land, situate, lying and being partly in the Borough of Bronx, and partly in the Borough of Manhattan, County of New York, City and State of New York, bounded and described as follows:

**BEGINNING** at a point on the southerly side of West 225th Street, distant 395.03 feet easterly from the corner formed by the intersection of the said southerly side of West 225th Street with the easterly side of Broadway (as widened on 8/5/1960);

**RUNNING THENCE** southerly at right angles to said southerly side of West 225th Street, 120 feet;

**THENCE** westerly at right angles to the last course, 71.03 feet;

**THENCE** southerly at right angles to the last course, 66.20 feet;

**THENCE** in a southeasterly direction along a line which forms an angle of 107 degrees 56 minutes 10 seconds on its northerly side with the last course, 485.18 feet;

**THENCE** continuing in a southeasterly direction along a line which forms an angle of 194 degrees 13 minutes 11 seconds on its easterly side with the last course, 172.02 feet;

**THENCE** easterly along a line which forms an angle of 122 degrees 53 minutes 36 seconds on its northerly side with the last course, 202.24 feet;

**THENCE** northerly at right angles to the last course, 24.19 feet;

**THENCE** easterly at right angles to the last course, 55 feet to the easterly side of Exterior Street (now closed and discontinued);

**THENCE** northerly at right angles to the last course and along said easterly side of Exterior Street (now closed and discontinued) 598.51 feet to a point of tangency;

Continued.....



## *First American Title Insurance Company of New York*

Title No. NY-00005147-NYNY

### SCHEDULE "A" CONTINUED

**THENCE** continuing northerly along said easterly line of Exterior Street (now closed and discontinued), on a line curving to the left having a radius of 3975 feet, 35.68 feet to the southerly side of West Kingsbridge Road;

**THENCE** westerly along the said southerly side of West Kingsbridge Road and along the said southerly side of West 225th Street, 326.43 feet;

**THENCE** southerly along a line which forms an angle of 90 degrees 20 minutes 30 seconds on its westerly side with the said southerly side of West 225th Street, 42.50 feet;

**THENCE** continuing southerly along a line which forms an angle of 165 degrees 31 minutes 30 seconds on its westerly side with the last course, 17.50 feet;

**THENCE** in a southwesterly direction along a line which forms an angle of 159 degrees 54 minutes 54 seconds on its westerly side with the last course, 73.20 feet to a point, in a line 120 feet south of and parallel with the southerly side of West 225th Street;

**THENCE** westerly along a line which forms an angle of 124 degrees 13 minutes 06 seconds on its northerly side with the last course and parallel with said southerly side of West 225th Street, 198.52 feet;

**THENCE** in a northeasterly direction along a line which forms an angle of 59 degrees 46 minutes 02 seconds on its easterly side with the last course, 138.89 feet to the said southerly side of West 225th Street; and

**THENCE** westerly along said southerly side of West 225th Street, 65 feet to the point or place of **BEGINNING**.

**TOGETHER** with the benefit of the Grant of Easement (for purposes of emergency egress only) recorded in Liber 4867 Cp. 361 (New York County) and Liber 2056 Cp. 167 (Bronx County), and subject to the provisions of said agreement.

Together with the benefits and subject to the burdens of (i) the Additional Parcel Easement (Pre-development Easement) (ii) reciprocal Access and Parking Easements (iii) Utility Easements (iv) Surface Water Easements (v) reciprocal Easements for Construction, Maintenance and Reconstruction and (vi) reciprocal Sign Easements as each is limited and defined in the Operation and Easement Agreement made by and between Target Corporation and Kingsbridge Associates, LLC dated 2/ /02 and being duly submitted for recording with the office of the Register, New York County and the office of the Register, Bronx County.



***First American Title Insurance Company of New York***

**THE** policy to be issued under this report will insure the title to such buildings and improvements erected on the premises which by law constitute real property.

**FOR CONVEYANCING ONLY: TOGETHER** with all the right, title and interest of the party of the first part, of in and to the land lying in the street in front of and adjoining said premises.